

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE O N EQUITY SALES CO.,

No. C 07-2844 JSW (MEJ)

Plaintiff(s),

vs.

**ORDER DENYING PLAINTIFF'S  
REQUEST TO ENGAGE IN  
IMMEDIATE DISCOVERY**

DANIEL MARIA CUI,

Defendant(s).

The Court is in receipt of the parties' Joint Meet and Confer Letter, filed October 12, 2007. (Doc. #36.) In the letter, Plaintiff The O.N. Equity Sales Company ("ONESCO") seeks permission to take immediate discovery. The Court notes, however, that Plaintiff has filed 20 similar federal lawsuits around the country in Arizona, California, Colorado, Florida, Iowa, Michigan, Minnesota, New Jersey, Pennsylvania, Texas, Vermont, Virginia, Washington, and West Virginia. As a result, other federal district courts have already addressed the issue that is before this Court.

In this case, ONESCO seeks to enjoin an arbitration against it by investors in Lancorp Financial Fund Business Trust. As in the other cases which have already addressed the issue of discovery, the undersigned finds that immediate discovery is not required to determine the issue of arbitrability. *See, e.g., ONESCO v. Pals*, 2007 WL 2506033, at \*1 (N.D. Iowa Sept. 6, 2007) ("ONESCO has not shown that immediate discovery is required to determine the issue of

1 arbitrability."); *ONESCO v. Steinke*, 2007 WL 2421761, at \*2 (C.D. Cal. Aug. 27, 2007) (court may  
2 decide the issue of arbitrability on a summary judgment motion without discovery or a hearing);  
3 *ONESCO v. Rahner*, 2007 WL 2908297, at \*1 ("ONESCO has failed to demonstrate that immediate  
4 discovery is required . . . to determine the issue of arbitrability"). Moreover, the undersigned finds  
5 that the district court can decide whether Defendants are entitled to arbitrate under the National  
6 Association of Securities Dealers, Inc., Rule 10301 without any discovery.

7 Accordingly, Plaintiff's request for an order authorizing immediate discovery is DENIED.

8 **IT IS SO ORDERED.**

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10 Dated: October 19, 2007

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12 MARIA-ELENA JAMES  
13 United States Magistrate Judge  
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